

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

118760

FILE: B-206610

DATE: June 17, 1982

MATTER OF: Made-Rite Tool Company, Inc.

DIGEST:

1. Bid which takes exception to IFB-required delivery schedule by adding sixty additional days to delivery terms is nonresponsive and may not be amended after bid opening to make it responsive.
2. Monetary savings offered by protester's low nonresponsive bid do not outweigh public interest in strict maintenance of competitive bidding system.

Made-Rite Tool Company, Inc. protests the rejection of its bid under invitation for bids (IFB) No. DAAA09-82-B-0080 issued by the Army Armament Materiel Readiness Command, Rock Island, Illinois for a quantity of bolt latches. Made-Rite's low bid was rejected because the Army determined that it was nonresponsive to the delivery requirements specified in the IFB.

The solicitation required delivery of certain quantities of the item to various Army depots at differing intervals after date of award of the contract, with the exact delivery periods dependent upon whether award was made with or without first article approval. The solicitation stated as follows:

"Offers offering delivery of each quantity within the applicable delivery period * * * will be evaluated equally as regards time of delivery. Offers offering delivery of a quantity under such terms or conditions that delivery will not clearly fall within the applicable delivery period specified * * * will be considered nonresponsive and will be rejected. * * *"

In its bid, Made-Rite typed adjacent to every required delivery time another time which was 60 days longer. Next to where the IFB specified a delivery time of "240 days," for example, Made-Rite entered "300." The protester subsequently explained to the contracting officer that:

"This entry is, without a doubt, a clerical error made during typing. It is customary to add sixty (60) days on all offers, where so allowed. In this instance it was not acceptable per [the solicitation terms]. As a responsible offeror we would no more add an alternate delivery schedule when not authorized, than send in an offer without a price."

Because of Made-Rite's alteration of the delivery schedule in its bid, however, the Army determined that the bid was nonresponsive.

The protester contends that since the difference in delivery terms was the result of a "clerical error" it should have been waived as a minor informality and its bid considered responsive. Further, Made-Rite maintains that the Army's failure during numerous telephone conversations after bid opening to advise the protester of this defect in its bid "jeopardized and prejudiced" Made-Rite. In any event, Made-Rite argues that the Army should not have rejected the monetary savings represented by Made-Rite's bid.

Where, as here, an invitation for bids requires delivery within a stated period, time must be regarded as of the essence of the resulting contract, Parker-Hannifin Corporation, B-186385, August 3, 1976, 76-2 CPD 120, and we have consistently held that where the inclusion of a qualification in a bid has the effect of extending the promised delivery beyond the date required by the solicitation, the bid is nonresponsive and must be rejected. Parker-Hannifin, supra; Imperial Eastman Corporation, 55 Comp. Gen. 605 (1975), 75-2 CPD 417.

As Made-Rite itself concedes, its alteration of the delivery schedule was intended to "add" sixty days to the time specified. Such a deviation cannot be waived as a minor informality since delivery terms represent material requirements. See, e.g., 48 Comp. Gen. 420, 422 (1968). Nor may Made-Rite's bid be corrected under rules governing mistakes in bids since errors in bids which may be corrected after opening are those which do not affect the responsiveness of the bid. Imperial Eastman Corporation, supra. Therefore, we do not believe Made-Rite was prejudiced by the alleged failure of the contracting officer to promptly inform that firm of the nonresponsiveness of its bid. Moreover, a nonresponsive bid may not be accepted even though it would result in monetary savings to the Government, as acceptance would be contrary to the maintenance of the integrity of the competitive bidding system. Ed-Mor Electric Co., Inc., B-187348, November 17, 1976, 76-2 CPD 431.

We have examined the cases cited by Made-Rite (41 Comp. Gen. 620 (1962); 17 Comp. Gen. 497 (1937); and B-157046, October 12, 1965) and find them unpersuasive since none involves a bidder taking exception to the delivery terms of an advertised procurement.

The protest is denied.

for *Harry P. Van Cleave*
Comptroller General
of the United States